

MIKE KREIDLER  
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON



OFFICE OF  
INSURANCE COMMISSIONER

Phone: (360) 725-7000

FILED

2005 <sup>WB</sup> Nov -9 P 3:37

Hearings Unit, DIC  
Patricia D. Petersen  
Chief Hearing Officer

September 23, 2005

Brian Finkelstein  
Constitution Insurance Company  
1345 Avenue of the Americas  
New York, NY 10105

Re: Violation of Washington Law

Dear Brian Finkelstein,

Evidence available to this office indicates that Constitution Insurance Company has violated RCW 48.05.250 and Chapter 284-07 WAC by failing to make a complete and timely filing of its annual statement for the year ended December 31, 2004.

The enclosed Consent Order is offered as an opportunity to resolve the untimely filing of CIC for the year ended December 31, 2004. If CIC chooses to resolve this matter through the consent order, please have an authorized company officer execute both copies of the order and return them to me before October 17, 2005. I will return a fully executed copy to you.

If CIC chooses not to accept the consent order, or does not respond by October 17, 2005, I will proceed with a referral for enforcement action.

Please direct any questions regarding this matter to Chase Davis at 360-725-7204.

Sincerely,

JAMES T. ODIORNE, CPA, JD  
Deputy Insurance Commissioner  
Company Supervision Division

**DECLARATION OF MAILING**

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below I mailed or caused delivery of a true copy of this document to Brian Finkelstein  
DATED this 23rd day of September, 2005  
at Olympia, Washington.

Signed: Eric M. Hansen



OFFICE OF  
INSURANCE COMMISSIONER

In the Matter of  
**CONSTITUTION INSURANCE**  
**COMPANY,**  
An Authorized Insurer.

No. D 2005 - 376

CONSENT ORDER

Comes now the Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.01.020 and RCW 48.05.130-185, and having reviewed the official records and files of the Office of the Insurance Commissioner, makes the following:

FINDINGS OF FACT

1. Constitution Insurance Company is an insurer holding a certificate of authority to transact insurance in the State of Washington, and is therefore governed by Title 48 RCW.
2. RCW 48.05.130-185 provides a process for addressing insurer violations of Title 48 Revised Code of Washington and Title 284 Washington Administrative Code.
3. RCW 48.05.250 requires each insurer, before the first day of March, to file a true statement of its financial condition, transactions, and affairs as of the thirty-first day of December preceding.
4. Chapter 284-07 WAC sets forth the form and requirements for filing financial statements for the year ended the immediately preceding December thirty-first.
5. Constitution Insurance Company failed to file with its annual financial statement for the year ended December 31, 2004 before March 1, 2005.
6. Attached Exhibit A is incorporated herein for the purpose of identifying the date of Constitution Insurance Company's annual statement filing.

Based upon the foregoing Findings of Fact, the Commissioner makes the following:

CONCLUSIONS OF LAW

1. Constitution Insurance Company by and through the conduct described above has violated RCW 48.05.250 and Chapter 284-07 WAC by failing to timely file in proper form its annual statement as of December 31, 2004.
2. RCW 48.05.185 authorizes the Insurance Commissioner to impose a fine in lieu of the suspension or revocation of a certificate of authority.
3. Constitution Insurance Company committed the following violation of Washington law:

Constitution Insurance Company failed to timely file its annual financial statement for the year ended December 31, 2004 in the form required by Chapter 284-07 WAC.

### CONSENT TO ORDER

Constitution Insurance Company consents to entry of this Order, waives further administrative or judicial proceedings in this matter, and acknowledges its duty to comply fully with the applicable laws of the State of Washington. The Insurance Commissioner has offered a settlement in lieu of suspending or revoking the certificate of authority.

By agreement of the parties, the Insurance Commissioner will impose a fine of \$5000 on condition that:

1. Within thirty days, Constitution Insurance Company pays to the Insurance Commissioner the full amount of the fine;
2. Constitution Insurance Company commits no further violations of the statutes and regulations that are the subject of this Consent Order;
3. Constitution Insurance Company voluntarily consents to this order to resolve the issues and conduct described herein and with the understanding that the payment of the amount due is a condition to avoiding suspension or revocation of the Certificate of Authority.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

### ORDER OF THE INSURANCE COMMISSIONER

NOW, THEREFORE, pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. Constitution Insurance Company is ordered to pay a fine in the amount of \$5000 upon the condition that The Company fully complies with the laws and regulations of the State of Washington which are the subject of this Order; and
2. Upon failure to pay the fine within the time limit set forth above, the sum will be recoverable in a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington, pursuant to RCW 48.05.185.

Consent Order No. D 2005 -376  
Page Three

ENTERED TUMWATER, WASHINGTON this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

MIKE KREIDLER  
Insurance Commissioner

By:

JAMES T. ODIORNE, CPA, JD  
Deputy Insurance Commissioner  
Company Supervision Division

# Washington Office of Insurance Commissioner

Exhibit A

## All Filings Due in 2005

Filings Report as of Friday, Sep 23, 2005 at 11:34:44 am

### Constitution Insurance Company

NAIC # 32190	Filing Type	Due	Electronic Received	Signature Sent
<b>Complete Filings - On-Time</b>				
A&H Policy Experience	Original	4/1/2005	3/30/2005	
April Supplemental Filing	Original	4/1/2005	3/30/2005	
Management's Discussion and Analysis	Original	4/1/2005	3/30/2005	
Audited Financial Report	Original	6/1/2005	6/1/2005	6/1/2005
CPA Qualifications Letter	Original	6/1/2005	6/1/2005	6/1/2005
CPA Internal Control Report	Original	8/1/2005	6/13/2005	6/13/2005
<b>Complete Filings - Late</b>				
Financial Statement - Annual - Investment	Original	2/28/2005	4/19/2005	
Financial Statement - Annual - Key (Jurat)	Original	2/28/2005	4/19/2005	2/28/2005
Financial Statement - Annual - Other	Original	2/28/2005	4/19/2005	
Statement of Actuarial Opinion	Original	2/28/2005	4/19/2005	2/28/2005

#### Explanation of the field descriptions:

- A. Filing Type—The filing type designated on the electronic filing.
- B. Due—the date the filing is due.
- C. Electronic Received—the date our records show as accepting the electronic filing.
- D. Signature Sent—this is the postmark or the delivery service acceptance date, not the date received.

#### Explanation of the section descriptions:

- 1. On-Time: The filing was accepted on or before the due date.
- 2. Other: Subsequent (not Original) filings.
- 3. Late: The electronic filing, signatures, or both, were accepted after the due date.
- 4. Outstanding Electronic: The company's electronic filing has not been accepted. Please file the document to our FTP site. If your company did make a filing attempt, it was rejected either because it arrived corrupt (typically due to a firewall on the company's end) or the file names were invalid. Also, ensure you file the signature pages, if you did not already do so.
- 5. Outstanding Signature: The signature has not yet been filed. Please do so.
- 6. 'Original' filing not accepted: We did not accept an Original filing prior to the company making a subsequent one. This is confusing and not an acceptable practice. We use the due date for what the Original would have been to determine timeliness.
- 7. Not yet due, but signature not yet accepted: This is a courtesy notice to you that we accepted a filing prior to its due date, but have not received the signature page.